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EXAMINER	
WALKER, NED ANDREW	

ART UNIT	PAPER NUMBER
4114	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/521,476	LORTHIOIR ET AL.	
	Examiner	Art Unit	
	NED A. WALKER	4114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 January 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *01/20/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In response to the Preliminary Amendment filed on January 20, 2005, claims 1-18 are cancelled and claims 19-35 are pending.

Claim Objections

2. Claim 19 is objected to because of the following informalities: In paragraph 4 lines 4-6, the language "the locking means preventing the lever from rotating to said unstable equilibrium position" should be deleted; this language was a repeat typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language "width of the three fingers in close contact with each other" in claim 33 and "lengths of the lever and of the gripping body are such that a user holding the gripping device in his or her hand will have his or her index finger and middle finger in contact with the lever and his or her ring finger and little finger in contact with the gripping body" in claim 34 are relative, which renders the claims indefinite. It is unclear what the actual claimed length in measured units is.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 19-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Nicollet et al. (US Pat No. 5,704,092).

Regarding claim 19, Nicollet et al. teaches a removable gripping device (figure 3) for a container (1), comprising: two members (13, 14) forming a gripper mounted on a gripping body (11) in which one of the members forming the gripper is mobile (14) and free to move in translation with respect to the gripping body along a direction approximately parallel to a longitudinal direction of the gripping body between an open position and a closed position in which the members forming the gripper are adapted to grip an edge of the container (column 2 lines 60-64). In addition, Nicollet et al. teaches a displacement means for displacing the members forming the gripper with respect to each other (column 2 lines 60-64), said displacement means comprising a lever (12) free to move in rotation with respect to the gripping body between an extended position and a retracted position in which the mobile member forming the gripper is in a closed position (column 2 lines 65-67 – column 3 lines 1-3), and a transmission means extending between the lever and the mobile member forming a gripper for displacing the mobile member forming a gripper in translation when the lever is pivoted (column 1 lines 50-56). Further, Nicollet et al. teaches the displacement means being shaped such that the lever is in a stable equilibrium position when in the extended position and when in the retracted

position, and the lever passes through an unstable equilibrium position when passing from one of these two stable equilibrium positions to the other. According to figures 1 and 2, this is apparent since the spring (19) and mechanical link (20) cooperate together to facilitate the extended and retracted position of the lever. When the lever is extended, the spring is in a state of relaxed length and therefore in a state of stable equilibrium. When the lever is retracted, the design dictates that the locking pin, in conjunction with the spring and mechanical link, allows the lever to remain locked, and therefore it will be in a state of stable equilibrium. The design further dictates that the spring with be in a state of partial compression and therefore in a state of unstable equilibrium according to Hooke's law. Furthermore, Nicollet et al. teaches a locking means (16) separate from the displacement means free to move between an active position and a locked position in which the locking means prevent the lever from accidentally rotating to said unstable equilibrium position, the locking means preventing the lever from rotating to said unstable equilibrium position (column 3, lines 50-53), the locking means being pushed towards the locking position by a return means and comprising an activation button (24) to be maneuvered manually to enable the locking means to move into the active position in which the lever can change from the retracted position to the extended position (column 3 lines 62-67, figures 1, 2).

Regarding claim 20, Nicollet et al. teaches wherein the locking means are installed in translation on the gripping body along a direction approximately parallel to the longitudinal direction of the gripping body (figures 1, 2).

Regarding claim 21, Nicollet et al. teaches wherein the locking means are closer to the members forming the gripper when the locking means are in the locked position than when the locking means are in the active position (figures 1, 2).

Regarding claim 22, one of ordinary skill in the art would glean from Nicollet et al. that wherein the locking means cooperate with the lever by click fitting (figures 1, 2). According to the design, when the lever is retracted, the locking means becomes taught at the same time the lever makes contact with the housing, generating a sound and therefore this can be interpreted as click fitting.

Regarding claim 23, Nicollet et al. teaches wherein the locking means comprise a tab in which an opening is formed (25), in which a hook (24) of the lever is engaged when the locking means are in the locked position, and is released from the hook when the locking means are in the active position (figures 1, 2).

Regarding claim 24, Nicollet et al. teaches wherein the hook comprises an upper surface adapted to entrain the locking means from their active position towards a position enabling click fitting of the hook in the opening, when the lever is pivoted into the retracted position (figures 1, 2).

Regarding claim 25, Nicollet et al. teaches wherein the activation button projects from a surface of the gripping body opposite a surface on which the lever is fixed (figure 2).

Regarding claim 26, Nicollet et al. teaches wherein the mobile member forming the gripper has a groove through which the activation button is solidarized to the tab (figure 2).

Regarding claim 27, Nicollet et al. teaches wherein the locking means in the active position are adapted to make the lever move from the retracted position to the extended position (figures 1, 2). Spring (19) of the locking means (16) will cause the lever to move in this manner.

Regarding claim 28, Nicollet et al. teaches wherein the locking means comprise an element forming an inclined plane (23) adapted firstly to stop in contact with a contact surface of the lever (22) when the locking means are in the active position, and secondly to impose a pivoting movement on the lever, to move the lever from the retracted position to a position in which the lever is moved to the extended position by the transmission means alone (figures 1, 2).

Regarding claim 29, Nicollet et al. teaches wherein the hook is released from the opening by translation of the locking means towards the active position before the inclined plane stops in contact with the contact surface (figure 1).

Regarding claim 30, Nicollet et al. teaches wherein the displacement means adjust a distance separating the two members forming the gripper in the closed position to match a thickness of the gripped container (column 1 lines 27-31).

Regarding claim 31, Nicollet et al. teaches wherein a spring (15) acts on the mobile member so as to enable adjustment of the distance separating the two members forming the gripper and is housed in the transmission means (figures 1, 2).

Regarding claim 32, Nicollet et al. teaches wherein the transmission means are formed by a connecting rod (20) free to rotate with respect to the lever and to the mobile member forming the gripper (column 4 lines 3-9).

Regarding claim 33, Nicollet et al. teaches wherein the connecting rod is free to move in rotation with respect to the lever under the control of a shaft (20b) that is located close to an end of the lever opposite an end at which the lever is hinged to the gripping body (figures 1, 2).

7. Claims 19-33 are also rejected under 35 U.S.C. 102(b) being anticipated by Montgelard (US Pat No. 6,000,100).

Regarding claim 19, Montgelard teaches a removable gripping device (figure 3) for a container, comprising: two members (1, 2) forming a gripper mounted on a gripping body (3) in which one of the members forming a gripper is mobile (1) and free to move in translation with respect to the gripping along a direction approximately parallel to a longitudinal direction of the gripping body between an open position and a closed position in which the members forming the gripper are adapted to grip an edge of the container (column 3 lines 1-16). In addition, Montgelard teaches a displacement means for displacing the members forming the gripper with respect to each other (column 3 lines 12-16), said displacement means comprising a lever (5) free to move in rotation with respect to the gripping body between an extended position and a retracted position in which the mobile member forming the gripper is in the closed position (figures 3 and 6), and a transmission means extending between the lever and the mobile member forming the gripper adapted to displacing the mobile member forming the gripper in translation when the lever is pivoted (column 3 lines 19-31). Further, Montgelard teaches the displacement means being shaped such that the lever is in a stable equilibrium position when in the extended position and when in the retracted position, and the lever passes through an unstable equilibrium position when passing from one of these two stable equilibrium positions to the other.

According to figures 3 and 6, this is apparent since the link blade and compensator spring (6) cooperate together to facilitate the extended and retracted position of the lever. Further, Montgelard teaches a locking means separate from the displacement means free to move between an active position and a locked position in which the locking means prevent the lever from accidentally rotating to said unstable equilibrium position, the locking means preventing the lever from rotating to said unstable equilibrium position (column 1, lines 30-33), the locking means being pushed towards the locking position by a return means and comprising an activation button (7) to be maneuvered manually to enable the locking means to move into the active position in which the lever can change from the retracted position to the extended position (column 2, lines 7-40).

Regarding claim 20, Montgelard teaches wherein the locking means are installed in translation on the gripping body along a direction approximately parallel to the longitudinal direction of the gripping body (figures 3, 6).

Regarding claim 21, Montgelard teaches wherein the locking means are closer to the members forming the gripper when the locking means are in the locked position than when the locking means are in the active position (figures 3, 6).

Regarding claim 22, one of ordinary skill in the art would glean from Montgelard that wherein the locking means cooperate with the lever by click fitting (figures 3, 6). According to the design, when the lever is retracted, the locking means becomes taught at the same time the lever makes contact with the housing, generating a sound and therefore this can be interpreted as click fitting.

Regarding claim 23, Montgelard teaches wherein the locking means comprise a tab in which an opening is formed (figure 6), in which a hook (5a) of the lever is engaged when the locking means are in the locked position, and is released from the hook when the locking means are in the active position (figures 3, 6).

Regarding claim 24, Montgelard teaches wherein the hook comprises an upper surface adapted to entrain the locking means from their active position towards a position enabling click fitting of the hook in the opening, when the lever is pivoted into the retracted position (figures 3, 6).

Regarding claim 25, Montgelard teaches wherein the activation button projects from a surface of the gripping body opposite a surface on which the lever is fixed (figure 6).

Regarding claim 26, Montgelard teaches wherein the mobile member forming the gripper has a groove through which the activation button is solidarized to the tab (figure 6).

Regarding claim 27, Montgelard teaches wherein the locking means in the active position are adapted to make the lever move from the retracted position to the extended position (figures 3, 6). Link blade (6) of the locking means will cause the lever to move in this manner.

Regarding claim 28, Montgelard teaches wherein the locking means comprise an element forming an inclined plane (6) adapted firstly to stop in contact with a contact surface of the lever when the locking means are in the active position, and secondly to impose a pivoting movement on the lever, to move the lever from the retracted position to a position in which the lever is moved to the extended position by the transmission means alone (figures 4, 6).

Regarding claim 29, Montgelard teaches wherein the hook is released from the opening by translation of the locking means towards the active position before the inclined plane stops in contact with the contact surface (figure 4, 6).

Regarding claim 30, Montgelard teaches wherein the displacement means adjust a distance separating the two members forming the gripper in the closed position to match a thickness of the gripped container (column 3 lines 1-31).

Regarding claim 31, Montgelard teaches wherein a spring (6, column 4 lines 53-57) acts on the mobile member so as to enable adjustment of the distance separating the two members forming the gripper and is housed in the transmission means (figures 3, 6).

Regarding claim 32, Montgelard teaches wherein the transmission means are formed by a connecting rod (6) free to rotate with respect to the lever and to the mobile member forming the gripper (figures 3, 6).

Regarding claim 33, Montgelard teaches wherein the connecting rod is free to move in rotation with respect to the lever under the control of a shaft (6a) that is located close to an end of the lever opposite an end at which the lever is hinged to the gripping body (figures 3, 6).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicollet et al. (US Pat No. 5,704,092) or Montgelard (US Pat No. 6,000,100).

Regarding claim 34 and 35, Nicollet et al. and Montgelard disclose all the limitations of the claims except for the length of the lever and the gripping body. It would have been an obvious matter of design choice to construct the lever and the gripping body to have a width and size that would allow a user to ergonomically fit the device comfortably in his or her hand. The aforementioned claimed lengths do not solve any stated problem, have no criticality, and do not

provide any particular purpose. At the time the invention was made, this would have been an obvious design change that would be well known to someone of ordinary skill within the art.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Montgelard (US Pat. No. 6,000,100) discloses a/an removable container holding device. Nicollet et al. (US Pat. No. 5,704,092) discloses a/an removable handle for containers. Velo et al. (US Pat. No. 6,393,973 B1) discloses a/an cooking utensil with removable grip handle. Lee (US Pat. No. 6,318,776) discloses a/an tongs for holding cooking container. Hsu (US Pat. No. 6,257,439 B1) discloses a/an handle for a food container. Durand (US Pat. No. 4,577,367) discloses a/an detachable handle including a spring-biased pivoting locking member. Serio et al. (US Pat. No. 3,474,486, US Pat. No. 3,306,648, US Pat. No. 3,186,026, US Pat. No. 3,065,018, US Pat. No. 3,065,017 and US Pat. No. 3,065,016) discloses a/an detachable handle for cooking ware or handle apparatus. Jones et al. (US Pat. No. 3,438,082) discloses a/an detachable handle. Schmitt (US Pat. No. 3,157,909) discloses a/an detachable handle. Peale (US Pat. No. 3,108,316) discloses a/an removable handle and related and otherwise handleless utensils. Adolph (US Pat. No. 2,712,151) discloses a/an detachable handle for a utensil. Dugger (US Pat. No. 1,406,826) discloses a/an detachable handle for cooking utensils. Park (US Pat. No. 6,439,420 B1) discloses a/an detachable handle for cooking utensil. Dodane (US Pat. No. 6,708,373 B2) discloses a/an gripping device for a cooking utensil. Bauer et al. (US Pat. No. 4,512,495) discloses a/an saucepan lid with detachable handle.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NED A. WALKER whose telephone number is (571)270-3545. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Cheng can be reached on 571-272-4433. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NW
1/11/08

/Joe H Cheng/
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